

DoD/Navy Interim Hotline Completion Report
Case Number 201102221
17 October 2011

1. Investigator(s) and identifying information and location of working papers

a. Investigator(s) and identifying information. (b) (6), (b) (7)(C) [REDACTED], Inspector General, Commander, Naval Surface Force Atlantic (CNSL), Tel: (757) 836-(b) [REDACTED] or DSN 836-(b) [REDACTED], e-mail: (b) (6), (b) (7)(C) [REDACTED]@navy.mil

b. Location of working papers. Commander, Naval Surface Force Atlantic, Office of the Inspector General, Attn: N01IG, 1430 Mitscher Ave., Norfolk, VA 23551-2494

2. Background and Summary

a. Hotline control #, dates of receipt, and tasking dates: Naval Inspector General (NAVINSGEN) Hotline control number 201102221 – CNSL received walk in complaint on 18 July 2011 and commenced investigation on 19 July 2011.

b. Summary of complaint: The complainant alleged that Commanding Officer, Beach Master Unit TWO (BMU 2), had the command come in on their day off, Sunday, 17 July 2011, set up static displays and prepare the command vehicles (HMMWV/Humvee, MTRV, LARC, etc) for (b) (6) family reunion (121 personnel), allowed them to drive the command vehicles and gave them rides into the water on the LARC.

Complainant also alleges BMU 2 has unauthorized vehicles, sold scrap metal for money and abused financial resources.

c. Additional information: The unauthorized vehicles mentioned in the complaint (two Civilian Hummers) were not found on BMU2's table of allowance (TOA). This issue has been referred to NBG2 for proper disposition and corrective action as appropriate.

d. Summary of the outcome of the investigation. A total of 9 allegations, 7 against (b) (6), (b) (7)(C) [REDACTED], (b) (6), (b) (7)(C) [REDACTED] were investigated. Based on the evidence, all allegations were substantiated.

e. List of allegations:

1. **Allegation 1**, that (b) (6), (b) (7)(C) [REDACTED] misused government resources on 17 July 2011 by utilizing command personnel and equipment to support (b) (6) family reunion in violation of 5 C.F.R 2635.
2. **Allegation 2**, that (b) (6), (b) (7)(C) [REDACTED], required (b) (6) personnel to work on a Sunday, 17 July 2011, to support (b) (6) family reunion, in violation of Navy Regulations, Chapter 8, 0817 (Observance of Sunday).
3. **Allegation 3**, that (b) (6), (b) (7)(C) [REDACTED], on 17 July 2011, communicated a threat to (b) (6), (b) (7)(C) [REDACTED], in violation of the Uniform Code of Military Justice, Article 134 (Threat, communicating).

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4. **Allegation 4**, that (b) (6), (b) (7)(C) [REDACTED], on or about November – December 2010, without authority, sold government property of the United States, in the sum of about \$1000.00, in violation of the Uniform Code of Military Justice, Article 108 (Military Property of United States—Loss, Damage, Destruction, or Wrongful Disposition)) and COMNAVREGMIDLANTINST 5090.5 (Integrated Solid Waste Management Program (ISWMP) and Qualified Recycling Program (QRP).

([REDACTED]
b [REDACTED]
) [REDACTED]
([REDACTED]
6 [REDACTED]

6. **Allegation 6**, that (b) (6), (b) (7)(C) [REDACTED], on or about November – December 2010, submitted appropriated funding into a non-appropriated (MWR) account in violation of 31 USC 1301 (Purpose, Time, Amount).

7. **Allegation 7**, that (b) (6), (b) (7)(C) [REDACTED], on or about May 2011, donated Beach Master Unit TWO MWR equipment to First Colonial High School, Virginia Beach, VA, in violation of BUPERSINST 1710.11C (Operation of Morale, Welfare and Recreation (MWR) Programs.

([REDACTED]
b [REDACTED]
) [REDACTED]
([REDACTED]

9. **Allegation 9**, that (b) (6), (b) (7)(C) [REDACTED], from on or about November 2009 to August 2011, abused financial resources in violation of 31 USC 1301 (Purpose, Time, Amount) and DODFMR 7000.14-R Volume 3 Chapter 8, paragraph. 080410.

3. **Allegation 1**, that (b) (6), (b) (7)(C) [REDACTED], misused government resources on 17 July 2011 by utilizing command personnel and equipment to support (b) family reunion in violation of 5 C.F.R 2635, **SUBSTANTIATED**.

a. Facts:

STATIC DISPLAY

(1) 5 C.F.R. 2635.704 (a) – An employee has a duty to protect and conserve Government property and shall not use such property, or allow its use, for other than authorized purposes

(2) 5 C.F.R. 2635.705(a) – Use of official time. Unless authorized in accordance with law or regulations to use such time for other purposes, an employee shall use official time in an honest effort to perform official duties. An employee not under a leave system, including a Presidential appointee exempted under 5 U.S.C. 6301(2), has an obligation to expend an honest effort and a reasonable proportion of his time in the performance of official duties.

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(3) (b) (6), (b) (7)(C) directed that a static display consisting of 2 LARCs, 2 MTVRS, 4-4 pack Humvees, 1-Hummer, 1-20-man tent and one of each weapon including one red gun be set up on Sunday, 17 July 2011. The CO worked directly with (b) (6), (b) (7)(C) regarding all the details of the visit, including (b) intentions of allowing the civilians to drive the Humvees and swim the LARKs (be in the LARCs when there are taken into the water).

(4) On 13 July (Wednesday), During the weekly CO's Operation & Maintenance brief at 1000, the CO mentioned (b) was having (b) (6), (b) Team set up a static display for Sunday at 1100 when (b) group was coming to visit. (b) (6), (b) confirmed the display would be ready. The CO directly managed the event with (b) (6), (b) and, therefore, (b) (6), was unaware of the details but was under the impression it was being set up like previous static displays.

(5) At approximately 1500, (b) (6), (b) (7)(C), approached (b) (6), with concerns about operating craft and vehicles because (b) heard SOCOM had the ANZIO beaches reserved for the entire weekend for the East Coast UDT/Seal Reunion & Demonstration. ANZIO beaches is where BMU2 normally trains and use of ANZIO beaches requires clearance approval through the base.

(6) (b) (6), was surprised by this as the CO had never mentioned anything to (b) (6), about operating vehicles or craft other than to stage the static display. (b) (6), directed (b) (6), (b) to verify ANZIO's use and stated (b) would talk to the CO.

(7) 14 July (Thursday), the CO was on leave. (b) (6), (b) approached (b) (6), because (b) was concerned about what exactly the plan was because the CO had not specifically stated the details and to verify that (b) was supposed to allow the civilians to drive the equipment with qualified Sailors in the vehicle. (b) (6), immediately called the CO, putting the call on speaker phone for himself and (b) (b). They entered into a dialogue with the CO about what (b) wanted for the visit, questioned the CO regarding (b) decision to allow the civilians to drive the Humvees and, stated that use of the ANZIO beach area was not an option. (b) (6), (b) openly stated (b) wanted to make sure this is what the CO wanted, that it was kosher, and no one would get into trouble.

(8) (b) (6), stated, "The CO said (b) wanted the option to give rides. (b) said (b) would like to find a small piece of the beach at ANZIO, if possible, and if not, to use Dozer Road (adjacent to the ANZIO beach area) for Humvee rides. Also, (b) wanted the option to give LARC rides and that could be done at the "Mudd Flats" if ANZIO beaches could not be used. I told (b) operating the gear was not a good idea and that we did not have permission to operate on the beaches or in the harbor. The CO got more heated and said we would find a way to do it. Myself and (b) (6), (b) told (b) again that it was not a good idea. The CO said, "I got it, I assume all responsibility, I am in command, there is nothing wrong with what I am planning and it is just like what we always do." During that conversation, at the very end, (b) (6), (b) (7)(C), walked in. (b) expressed concerns about the vehicles and made it clear civilians were not licensed to drive our vehicle. The CO again said, "I assume all responsibility" and said to have the Team there and the static displays set-up. (b) said (b) did not know exactly what the plan was going to be, that (b) would think more about it, but (b) wanted the Team there in addition to the duty section in case (b) wanted to operate the gear. Rather than argue with the CO at this point in front of the DH's, I decided it was best to back off and end the conversation. I would call the CO back later to reengage with (b) to include emphasizing to (b) that bringing in a Team on Sunday to specifically cater to (b) personal tour group was a bad idea.

(9) (b) (6), (b) started putting things together and got a watch bill signed for the event. It was still unclear to (b) as to who exactly was coming. (b) had an idea some were family members of the CO but was unsure if others were coming as well. The CO informed (b) there would be approximately 80 to 100 people for the event. (b) (6), (b) directed Team FOUR, which were the personnel coming in to work

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the event, as well as the duty section, to be at the command 0900 on Sunday, 17 July 2011, which is normally not a working day for them.

(10) 15 July (Friday), the CO was on leave. (b) (6), called the CO to update (b) on things and reengage (b) on the plan for Sunday. (b) (6), emphasized they did not have permission to use the ANZIO beaches, that the duty section should be the only Sailors used to support (b) tour (since they were at work anyway), and that bringing in a Team on Sunday to specifically cater to (b) personal tour group was a bad idea. (b) (6), stated, "The CO got irritated. (b) said (b) was still not sure what (b) was going to do and to leave it to (b). I told (b) it was a bad idea to give rides because we did not have clearance to operate and that civilians were not licensed to operate any of our gear. The conversation got heated. (b) said, "The Lawyer is not in command. I am." (b) said it was "(b) command and (b) command only." (b) said (b) was accepting all responsibility and that there would be no problem because (b) was doing nothing wrong.

(11) 17 July (Sunday), the day of the event the CO arrived around noon in a sedan wearing civilian clothing with two charter buses holding 121 family members who had come together for a family reunion. They were given a tour of the command and mingled around the static display.

(12) As part of the static display there was a tent with a table containing one of each weapon that BMU TWO had. Two Petty Officers manned the table allowing the civilians to view, touch and take pictures with the weapons. There was no ammunition and the display was only for show.

DRIVING THE VEHICLES

(13) The civilians were allowed to drive the MTVRS, Humvees and Hummer and given rides on the LARCs which were taken into the water.

(14) The civilians took turns driving the vehicles from the grassy field, across the street to Dozer Road (using traffic controllers), drove down Dozer Road (sandy road on the beach), would turn around at the end and come back, cross the road again (using traffic controllers) and back onto the grassy field. This took approximately 10 minutes per person lasting approximately two hours.

(15) The CO did not inform (b) (6), (b) that (b) was going to allow the civilians to drive the MTVRs, only driving the Humvees was previously discussed. Therefore, there were not enough qualified personnel standing by to assist. According to (b) (6), (b), in order to be a qualified driver you must attend a course and then demonstrate your ability. There is also a PQS for MTRV, HUMVEE, LARC driver and LARC commander. (b) (6), (b) approached (b) (6), (b) asking for (b) help as a qualified driver to sit in the vehicle while the civilians drove. (b) (6), (b) responded stating (b) did not believe that was legal.

SWIMMING THE LARCS

(16) (b) (6), (b) (7)(C) stated, "I had duty Sunday but would have had to be here anyway for Team 4 to run the LARC. I am a qualified engineer which was needed for running the LARC. We used two LARCs but only splashed one LARC. When splashing a LARC, you have to have another one there on standby in case something happens when it's in the water. So you have to have two crews and two LARCs available for one to go in the water.

Everyone who wanted to go out on the LARC was able to do so. We did four trips. On the first three trips we limited it to about 10 people each because we didn't want to over load the LARC, we wanted everyone sitting down. Then I guess we were running out of time and the CO wanted to do one last trip

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so we had like 18 people which is still okay because we can have up to 20 passengers and we were under that. **Everyone had a life jacket except on the last trip there was a child that was too small and the life jacket would fit (b) so (b) sat on someone's lap.** We brought the LARCs out from the command, parked out front, loaded people up and took them to the Mud Flats. We conducted safety briefs before going in the water. We went in the water, made a loop, did like a figure 8 and then came back in. It was about 30 minutes each trip.

I didn't know I was going to have to run the LARC until I came in on Sunday. I heard that Team 4 was doing a static display for either ACU4, Senators or Dignitaries. The CDO put out that the entire duty section was going to have to stay until the static display was over in case Team 4 needed help with anything. Normally, we are allowed to go home unless standing a watch. (b) (6), (b) approached me saying (b) was going to need my help to run the LARC. So I went out back and grabbed Team 4 LARC personnel and tried to find two LARCs that we could use. We went through like four different LARCs trying to find two that were operational to take in the water because we were told they had to go in the water. I called (b) (6), (b) because we were having problems getting a LARC that would be okay to take in the water. He's my (b) (6), (b) (7)(C). (b) came in to level everything out and make sure everything was okay and (b) hung out until everything was pretty much over. (b) (6), (b) and I were on the phone with (b) a lot trying to get our equipment ready so I guess (b) just decided to come in.

By then we had heard rumor that the static display was for the CO's family. It had already spread through the command that is why were taking the LARCs out was for (b) family to ride. Everyone was kind of mad that they had to come in on a Sunday to do this.

The only time I've taken people out on the LARC before were people who came down from DC like Senators and people who control our budget and we did the same thing for them. We do this for Senators, Dignitaries and Marines going through school. We did it once for an Easter picnic family day thing where all the families came in and we gave them rides. Also last year at the CO's change of command. "

(17) (b) (6), (b) (7)(C) stated, "On Sunday, there were having difficulties with the LARCs. They couldn't get them started, one had difficulty with fuel, another one had difficulty with electrical. Over the phone I advised them to switch to different LARCs. After the third LARC, I decided to go in since I'm ultimately responsible for the maintenance of the LARCs. When I came in I went straight to my office and spoke with the guys about the LARCs and their individual issues.

I didn't know the LARCs were going to splash until I went out front and saw people getting on them and putting on life vests. I asked (b) (6), (b) and was told they were going in the water. I've been told that we've done it before for VIP's. We've shown the Force to a lot of official government visitors since I've been here. I think the people that were here Sunday were all friends and family of the Skipper because they were all civilians and they all knew (b) (6), (b). (b) (6), (b) and I figured (b) (6), (b) had permission from ESG2 and the Commodore to do this."

PICTURE TAKING

(18) (b) (6), (b) stated, "The chief saw me taking pictures and said "Hey, (b) (6), get down. You can go home." I said "I'm here to help. This is my team." I don't remember the chief's name. I work in the maintenance department. I don't really know the rest of them. They wouldn't let me continue with the static display. Then (b) said that the CO wanted to talk to me. The CO was walking by and gave me a look and said, "Get in my office!" I went to (b) office. Then (b) goes, "You know what, you wanna be a sea lawyer? You think you know people. You can call the IG. You can call the congressman. I don't care who the fuck who you call, but get the fuck out of here and I will deal with you later. It is my job to get you out of the Navy by August 26th." My EAOS is in 2013. (b) retires August 26th. To me, this

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means that (b) plans to kick me out before (b) retires. (b) wants me gone because I stand up to (b) and tell (b) that we have to abide by the rules and so does (b). Because I spoke up, (b) is out to get me. (b) wants me out of the Navy. At 1330, 17 July, the CO told me to get my stuff and go home about 1330. I said roger.

CO told me (b) wanted to talk to me and asked if I was recording this. I answered, no. (b) said that it was (b) mission to get me out of the navy by Aug 26. (b) also said, "God, I wish you were still on leave. I said, "would you like me to fill out a leave paper?" (b) "No, get out and go home!"

(19) (b) (6), (b) (7)(C) stated, "I went to go outside and heard the CO behind the admin door yelling at (b) (6), saying, "Go get your Congressman, go get your IGs..." that's all I heard and then I was directed to go outside by (b) (6), (b) (6). I went to go outside and that's when I saw (b) (6), being walked away by (b) (6), (b) (6). I guess (b) was told to go home. I found out later when I called (b) and asked what happened and (b) said (b) was out taking pictures and the CO pulled (b) inside and started yelling at (b) (b) said (b) told the CO that this wasn't right, this wasn't correct. (b) also told me that before (b) took the pictures, (b) told (b) (6), (b) (6) that this was illegal. (b) (6), (b) (6) told (b) they had routed the paper work and it was alright. (b) (6), said, no, Sir, it's illegal. We're not supposed to do this. Civilians are not supposed to drive the government vehicles. If you don't have a government license and did not go through the school, you are not supposed to touch the government equipment, that is in the book. (b) (b) said the CO knows what (b) 's doing. That's when (b) started taking the pictures and the CO pulled (b) inside.

When (b) (6), was leaving the command, I went outside and took some pictures. When I was done I was walking over to see (b) (6), (b) (6) and the CO waved me in and took me back into (b) office. (b) was talking on (b) phone, I do not know who (b) was talking to and I heard (b) saying, "Any of the evidence, or any of these pictures that (b) (6), (b) (7) is taking..I'll talk to you later!" (b) hung up and said, "(b) (6), what are you doing!" I said, "I wasn't doing anything, Sir." And (b) said, "I don't care if you have these pictures-What, are you on that (b) (6), juice? Are you hyped up on whatever (b) (6), 's hyped up on? Do you know what (b) (6), 's done? Do you know (b) past wrap sheet?" I said, "Sir, no. I really don't." And (b) said, "Then what's going on?" I said, "Sir, I'm really not that excited about how I get in trouble myself for going to Mast for failing part of a spot check that I shouldn't have gone to Mast for." (b) said, "What are you talking about?" I told (b) it was the work enter sup that was supposed to check the parts, but instead I went up. The CO said, "We cleared that. We dropped that case didn't we?" I said yes but I still had to sign a page 13, I still got in trouble. Then (b) yelled at me a little bit more and asked me if I was on the (b) (6), juice. I told (b) I was not on the (b) (6), juice. Then (b) said (b) was sorry for yelling at me and told me what (b) (6), did. (b) told me about (b) 4 DUIs, (b) did coke and some other stuff before (b) came in the military. Then (b) kid and their boyfriend came in so the CO shut the door and then started talking to me a bit more calmly and didn't yell at me as much. (b) asked me why I was taking pictures. I told (b) I didn't think it was right and I was going to send the picture to EO2 and ask (b) because I don't know too much about this but I know it doesn't seem correct. If someone who didn't have a license was out driving one of us around and (b) did something (b) would be in trouble and be taken to Mast. So (b) said, "So, you're going to trust an EO2 and you can't trust me your Commanding Officer?" (b) said, "These are American citizens. These are taxpayers. We're just letting them do and see what they pay for. That's all. That's all it is!" I said, "Okay, Sir." (b) said, "Do we have a problem here?" I said, "No. No we don't, Sir." And (b) went to give me a fist pound and I said okay, Sir, and walked back out to get back to work and this is when (b) (6), (b) (6) was coming into the office to find (b) to tell (b) there was going to be another LARC ready for operation. I went to the back and called (b) (b) and told (b) what happened and why I was called in to the CO's office. (b) is our new (b), he's in charge of all the CESE equipment. (b) told me that the CO was trying to use a scare tactic on me because (b) knows that's not right. No matter what paperwork you've sent up, civilian aren't supposed to touch the equipment. It's like me bringing my sister in letting her do this.

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I stayed in the back after that because I didn't want anything to do with what was going on. Later they called over the 1MC for everyone to get on the bus.

(20) Personnel working the event left around 1520 after taking everything down, stowing the gear and spraying down the equipment due to driving in the sand and saltwater.

(21) When the event ended, (b) (6), (b) called (b) (6), to inform (b) “.that everything went well, except the CO got upset with the (b) (6), (b) and sent (b) home for whatever reason. I guess because (b) was taking pictures or videos and the CO wasn't happy. (b) said I'm sure more will come of this and we'll talk with the CO and figure out what's going on. We all left at approx. 1520.”

(22) (b) (6), stated (b) got a call from the CO around 1500 and (b) was extremely irate. The CO informed (b) that (b) saw (b) (6), (b) taping the event and immediately brought (b) (6), (b) and (b) in (b) office, chewed them out, and told them to go home. The CO said other than that, the (b) (6), event went very well and that (b) was pleased with everything. It was a short phone call and the CO was very upset.

(23) 18 July (Monday), the CO was on leave. In the morning (b) (6), held command quarters in the classroom to put some things out, schedule changes, etc., and to address Sunday's event because it was festering and (b) heard rumblings of contacting the IG. (b) (6), stated, “In the past the CO has always said for the guys to report it if there is an issue. If they really have a problem with something or believe there is an issue, they need to report it. So I put it out at quarters to everyone. In the past we've had a couple issues where people would threaten a CMEC complaint or IG and we wanted them to know the process and feel free to use the process. So, I knew there was stewing going on and wanted to get everyone in and clear it up especially since after hearing what happened with the butt chewing on Sunday, everybody knew this event happened. So I wanted to put it to rest and told them if someone had a complaint to report it. I also passed on what the CO relayed to me about how the event went and the good job they did and thanked Team 4.”

(24) (b) (6), (b) stated, “(b) (6), came in and talked to everyone about Sunday's event and what it was. (b) (6), said the event was like a tiger cruise, a family event. However, when I first got tasked with it, I thought, “Are we doing the right thing?” The part that made me question it was the civilians driving the vehicles.” In hindsight, if I were to do it all over, I would have been sterner with the CO. I would have questioned more. I've been in the Navy 14 years. I'm prior enlisted. For me to talk like that to the CO, I'm not sure. That's why I brought it up twice ahead of time. When the CO says yes, this is what we were going to do, who am I to tell the CO what (b) can do. I thought maybe (b) had talked to the Commodore and got permission.

(25) (b) (6), (b) (7)(C), stated the CO told (b) a couple weeks in advance that (b) wanted to bring some family and friends in to see (b) command. (b) (6), (b) further stated that there was no mention of the team or anyone having concerns or issues with safety or not being able to do the evolution and no one complained or came to (b) with any concerns about having to work that Sunday. (b) said that since nobody complained to (b) (b) considered everything to be okay and (b) had no problem with people coming in on their day off for this event.

REPORT CHIT

(26) (b) (6), (b) stated, “(b) (6), (b) had showed up late on Sunday. When (b) (6), arrived, (b) said (b) (6), (b) told (b) to be there at 1200. (b) said (b) told (b) to be there at 1000. I told (b) this would be a verbal counseling. On Monday, (b) (6), told me to write a counseling chit on (b) (b).

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wanted me to put it on paper. I told (b) (6), that I had already verbally counseled (b) and told (b) there wouldn't be any paper on it. (b) said, "No, we need to put this on paper." So I called in (b) (6), (b) and told (b) that I had to put it on paper. (b) left because we didn't have the counseling chit ready at that time. Then (b) (6), comes back to me and tells me to do a report chit. I told (b) (6), that I just told (b) that I was doing a counseling chit. (b) tells me to do the report chit. So I went to (b) (6), (b) and discussed it. I didn't feel that what (b) did warranted a report chit. (b) (6), (b) agreed with me that the offense didn't warrant a report chit. So (b) (6), (b) and I go down and talked to (b) (6),. Then (b) agreed to us doing a counseling sheet. So, we did the counseling sheet.

(27) (b) said the CO called to get an update and (b) mentioned to the CO that (b) (6), (b) was writing a counseling sheet on (b) (6), (b) for being UA on Sunday. When the CO heard this (b) made it very clear to (b) (6), (b) wanted (b) (6), (b) put on report and sent to a CPO Disciplinary Review Board.

(28) When asked about the family day event, (b) (6), (b) stated, "Regarding the family day event, I had a family reunion here in town. I had 121 people come from several different states: Texas, Arizona, Missouri, Maryland, and Washington DC. People came from all over for my family reunion. It was a family reunion. One of the things that the family wanted to see was my command. So I made preparations for them to come over and see my command.

I don't have a ship or anything like that. I've got a Beach Master Unit. I am very proud of my Beach Masters and wanted to show my family and they wanted to see what it is that we do. So I set up an event. Unlike any other event that we would set up, I set up a static display just like we do for family day when we have folks out from the command and stuff like that. The only difference this time was that it was for my family. I do deeply regret the fact that I did not consult with the commodore about this. I did not consult with anyone outside the command except for my cadre of folks over at the command about this family day set up.

Q. What happened at the Family Day, Sir?

A. My folks came over for the static display. I allowed them to get in the vehicles, ride in the vehicles and get underway in the LARC, no different than we would have done with anybody else. I justified this in my own mind that it was okay to go ahead and do it. I convinced my subordinates and justified it to them that it was okay to do it because we had done it before. The only difference was that this was for my family. I understand that. I really do understand how I did not look at how this could be have perceived by other folks. I did not look at how it could be perceived by an outside entity. It was not unusual for me to have a crew come in on a Sunday or a weekend or nights or anything else like that. My guys work all types of hours and they are always compensated for their time when they have to come in on a weekend or if they work at night or anything else like that. We have worked over holiday weekends. So in my mind, it was not unusual to call them in on a weekend. I understand the perception. I do understand that perception of how it could have been taken that we just have to come in for the CO's family. I understand that. That is not lost on me. This static display was no different than many of the others that we have done, no different.

Q. So at the other static displays that you've done you've allowed people, civilians actually, to drive the HUMVEE, Hummers and LARCs?

A. Nobody drove the LARCs. And, we have had people drive the LARC. Yes ma'am we have! People have driven the Humvees and the Hummers in the past that is absolutely correct.

Q. Who has that been, Sir?

A. I couldn't give you specific names, but (b) (6), (b) (7)(C)'s kids have driven the Hummers. There are several people who have driven the Hummers. There are others at the commands that have driven the Hummers. I don't have specific names of those people but I'm sure if I go back and ask I can find other

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people who have driven the Hummers. They're wives --a couple of them have driven the Black Hummers. So, yeah, I don't think that was unusual. The large number of people that were driving, because it was a big group, was different.

Q. So (b) (6), (b) (7)(C) is one of the members that works for you at the command?

A. Yes, (b) is still over there now. (b) is the only that comes to mind right now, but I know that there are plenty of others. They are all people that work for me at the command. Other command people and their families have driven the Hummers and Humvees vehicle without a government license. Others have driven the LARC without a qualification. We've had civilian's come over from the program office. Admiral Scott and (b) (6), (b) (7)(C) have driven it. I don't know everybody who has driven the LARC, but this has all been since I've been in command.

Q. Did your personnel below you, (b) (6), (b) (6), (b) (6), (b) (6), (b) (7)(C), did they know your family members were going to be driving these vehicles?

A. We had a discussion and there was some push-back on it. Again, I rationalized it in my mind that it was okay and that it was no different than we had done in previous times. They did express concern, yes.

Q. What was their concern exactly that they expressed to you, Sir?

A. Um, just concern. Just concern and I told them that I was going to assume the risk for it.

Q. Concern about them driving the vehicles?

A. Yes.

Q. Did you tell your staff what the purpose for the weekend event was for exactly. Did they know?

A. I didn't discuss it with the average sailor so to speak, but I did discuss it with (b) (6), and (b) (6).

Q. Did you discuss it with the Commodore at all, Sir?

A. No, I did not. I deeply regret that I did not discuss this with the commodore.

Q. So was Team 4 directed to be here that day?

A. Yes. And again, it's just like any other event. Team 4 did Pungo for example. It's the whole team that goes and the whole team that conducts the event. It was not a volunteer event. (b) (6), was the guy I asked to do the event and (b) team was going to be the team that put this on. So, that is kind of how it happened.

Q. Where you in uniform for this tour?

A. I was not.

Q. Why is that, Sir?

A. I was not in uniform.

Q. Typically when you give a tour you're in uniform.

A. The crew was in uniform, but I was not.

Q. Do you have any idea what the approximate cost for the event, for the personnel, time and fuel for the vehicles would be?

A. No idea, no.

Q. At one point in the event you became very upset with (b) (6), (b) (6). Would you please take me through that, Sir.?

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A. Yes. I need you to understand exactly what (b) (6), (b) (7)(C) represents, okay? And why I was upset. (b) (6), (b) (7)(C) engages in what I refer to as "Gotcha" tactics. That's why I'm very upset with myself and disappointed with myself that I allowed myself to be put in this situation and didn't think this through all the way. But (b) (6), (b) (7)(C) engages in "Gotcha" tactics. Instead of (b) (6), (b) (7)(C) giving me advice or instead of (b) (6), (b) (7)(C) voicing (b) (6), (b) (7)(C) opinion and I've got 70% of my sailors are E-4 and below and (b) (6), (b) (7)(C) is an E-5, what (b) (6), (b) (7)(C) does is complains and moans about everything instead of doing his job. Once you lay into (b) (6), (b) (7)(C) and let (b) (6), (b) (7)(C) know that you're on to (b) (6), (b) (7)(C) then (b) (6), (b) (7)(C) goes into like a "black mail" tactic. If you do anything to me, I'm going to file an EO complaint or I'm going to do this or I'm going to do that. I'm going to tell the IG or whatever. (b) (6), (b) (7)(C) was out snapping pictures. At no time did (b) (6), (b) (7)(C) come and say that (b) (6), (b) (7)(C) was concerned. At no time did (b) (6), (b) (7)(C) come and say that (b) (6), (b) (7)(C) didn't want to be there. (b) (6), (b) (7)(C) was already UA. (b) (6), (b) (7)(C) already knew that (b) (6), (b) (7)(C) was in trouble. So (b) (6), (b) (7)(C) started engaging in these "Gotcha" tactics and I dismissed (b) (6), (b) (7)(C) from the event.

(b) (6), (b) (7)(C) is a criminal and should have never been in the Navy in the first place. (b) (6), (b) (7)(C) has a rap sheet that is at least 3 or 4 pages long based on (b) (6), (b) (7)(C) background investigation and I let (b) (6), (b) (7)(C) know that I was going to make it my business to get (b) (6), (b) (7)(C) out of the Navy because (b) (6), (b) (7)(C) never should have been here. Never have been here. That was my discussion with that (b) (6), (b) (7)(C). (b) (6), (b) (7)(C) responded with "yes sir." Then (b) (6), (b) (7)(C) left.

I did have a discussion with another (b) (6), (b) (7)(C) who was taking pictures, (b) (6), (b) (7)(C). (b) (6), (b) (7)(C) told me that (b) (6), (b) (7)(C) was going to give the pictures to (b) (6), (b) (7)(C) and I'm like, if there was concern, why didn't you (b) (6), (b) (7)(C) come talk to me! Then (b) (6), (b) (7)(C) starts talking about a captain's mast that (b) (6), (b) (7)(C) had to go to. I'm like- you have got to be kidding me! You know, I dismissed (b) (6), (b) (7)(C) case at captain's mast and I didn't understand why it was still stuck in (b) (6), (b) (7)(C) crawl that (b) (6), (b) (7)(C) had to go to captain's mast! (b) (6), (b) (7)(C) chain of command was held accountable for not properly training (b) (6), (b) (7)(C) and stuff like that so I understand. So again, what I am engaged in and what I don't know if you all can appreciate is how some of these sailors are engaging in "Gotcha" tactics instead of just focusing on doing their job. Their main objective and goal is to "Gotcha" to get me. So, I understand that. I fully do. I guess it's just part of the job.

(b) (6), (b) (7)(C) never told me that (b) (6), (b) (7)(C) felt that what was happening was illegal or wrong. At no time did (b) (6), (b) (7)(C) say that to me, never. As for (b) (6), (b) (7)(C), (b) (6), (b) (7)(C) told me that (b) (6), (b) (7)(C) was going to give this information to (b) (6), (b) (7)(C) but did not tell me why. The reason that (b) (6), (b) (7)(C) gave was because I sent (b) (6), (b) (7)(C) to captain's mast. So if (b) (6), (b) (7)(C) is recalling the conversation differently, I'm saying that it is inaccurate.

(b) (6), (b) (7)(C), (b) (6), (b) (7)(C), and I want to say the MO or one of them, was on the phone with me a couple days prior to the event. And yes they did voice concern and I think I said that in the beginning. I don't remember what their specific concerns were. I don't remember if it was about the moving of the vehicles or the set up, but it wasn't about the Sunday or anything else like that, but they did voice concern about the event. I'm not going to tell you that they didn't and I appreciated their concern. Again, I justified it in my mind that it was okay and that it wasn't any different than anything else that we had done which was not all the way accurate. I acknowledge that. I could have definitely done a better job at this.

With hindsight being 20/20, I would have not set up the display. I would have just given my family members a tour of the command. I would have just brought them over and let them see the stuff. I would not have gotten the vehicles underway. I wouldn't have done any of that. I would have just brought them over and showed them where I work. That's not the decision that I made. I made a different decision. That's what I did. I would have just basically showed them the place with the duty section that was already here and I don't think we would have the issues that we have right now. It's not lost on me that I could have done this better.

(b) (6), (b) (7)(C)'s kids drove the Humvee. Other than (b) (6), (b) (7)(C) children, I can't give a complete run down of who has driven the Humvee. There are other folks, some kids of the sailors at the command. They did so

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with my approval. Again, I don't have a helm that I can let the folks go up and steer the ship and stuff like that. That's what I likened it to. I likened to a family day cruise on a ship, the family members get to drive the ship, turn the wheel and touch the engines and all that other kind of stuff and those people aren't qualified to do that either. There is a qualified person there with them. Again, it is not lost on me that there is a significant difference between the two. But again, that is the rationale I was using.

b. Analysis/Discussion/Conclusion

(1) (b) (6), (b) (7)(C) admitted to utilizing command personnel and equipment to support (b) (6), (b) (7)(C) family reunion on 17 July 2011. This clearly violates 5 C.F.R 2635. (b) (6), (b) (7)(C) tried to justify (b) (6), (b) (7)(C) actions rationalizing that (b) (6), (b) (7)(C) family reunion was the same as a family day cruise on a ship and that it was not unusual for (b) (6), (b) (7)(C) personnel to work events on the weekends. The difference in the case is obvious. The event was exclusively set up for (b) (6), (b) (7)(C)'s family, no permission was obtained from higher authority to stage such an event and personnel were directed to work the event on their "off" time.

(2) (b) (6), (b) (7)(C) allowed (b) (6), (b) (7)(C) family members to drive the vehicles and ride in the LARC against the advice and recommendation of (b) (6), (b) (7)(C) and other officers, accepting full responsibility and authority for the event.

(3) (b) (6), (b) (7)(C), knew of the event and stated that since "...there was no mention of the team or anyone having concerns or issues with safety or not being able to do the evolution and no one complained or came to (b) (6), (b) (7)(C) with any concerns about having to work that Sunday..." (b) (6), (b) (7)(C) considered everything to be okay and (b) (6), (b) (7)(C) had no problem with people coming in on their day off for this event. (b) (6), (b) (7)(C)

(4) Based on this evidence, I concluded the allegation is SUBSTANTIATED.

c. Recommendation.

(1) Take administrative and/or corrective action as deemed appropriate.

d. Disposition. Forwarded to Commander, Naval Surface Force Atlantic for disposition.

4. Allegation 2, that (b) (6), (b) (7)(C), required (b) (6), (b) (7)(C) personnel to work on a Sunday, 17 July 2011, to support (b) (6), (b) (7)(C) family reunion, in violation of Navy Regulations, Chapter 8, 0817 (Observance of Sunday), SUBSTANTIATED.

a. Facts:

(1) Navy Regulation, Chapter 8, Paragraph 0817 (Observance of Sunday) – Except by reason of necessity or in the interest of the welfare and morale of the command, the performance of work shall not be required on Sunday. Except by reason of necessity, ships shall not be sailed nor units of aircraft or troops be deployed on Sunday. The provisions of this paragraph need not apply to commands engaged in training reserve components of the Navy and Marine Corps;

(2) Same as in Allegation 1, fact numbers (3), (8), (9), (10) and (28)

b. Analysis/Discussion/Conclusion

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(1) (b) (6), (b) (7)(C) required Team 4 to come in to work on Sunday, their day off, to support (b) (6), (b) (7)(C) family reunion. (b) (6), (b) (7)(C) made this decision against recommendations to utilize only the duty section personnel who would already be there that day. This was a personal event, not a necessity or in the interest of the welfare and morale of the command as required by regulation in order to work personnel on a Sunday.

(2) Based on this evidence, I concluded the allegation is **SUBSTANTIATED**.

c. Recommendation.

(1) Take administrative and/or corrective action as deemed appropriate.

d. Disposition. Forwarded to Commander, Naval Surface Force Atlantic for disposition.

5. Allegation 3, that (b) (6), (b) (7)(C), on 17 July 2011, communicated a threat to (b) (6), (b) (7)(C), in violation of the Uniform Code of Military Justice, Article 134 (Threat, communicating), **SUBSTANTIATED**.

a. Facts:

(1) Manual for Courts-Martial, Uniform Code of Military Justice, Article 134 (Threat, communicating) – Elements:

- a) That the accused communicated certain language expressing a present determination or intent to wrongfully injure the person, property, or reputation of another person, presently or in the future;
- b) That the communication was made known to that person or to a third person;
- c) That the communication was wrongful; and
- d) That, under the circumstances, the conduct of the accused was to the prejudice of good order and discipline in the armed forces or was of a nature to bring discredit upon the armed forces.

(2) Same as in Allegation 1, fact numbers (18) through (22), (26), (27) and (28).

b. Analysis/Discussion/Conclusion

(1) (b) (6), (b) (7)(C) stated that (b) (6), (b) (7)(C) believed (b) (6), (b) (7)(C) was engaging in “Gotcha” tactics when (b) (6), (b) (7)(C) took pictures of the event and that (b) (6), (b) (7)(C) would later use the pictures to somehow “black mail” (b) (6), (b) (7)(C). Furthermore, it’s clear from (b) (6), (b) (7)(C) statement that (b) (6), (b) (7)(C) believed (b) (6), (b) (7)(C) would possibly file an EO complaint or contact the IG regarding the event. This belief was not only held by (b) (6), (b) (7)(C), but by many personnel at the command as well. Therefore, when (b) (6), (b) (7)(C) communicated to (b) (6), (b) (7)(C) that (b) (6), (b) (7)(C) was going to make it (b) (6), (b) (7)(C) business to get (b) (6), (b) (7)(C) out of the Navy by August 26th, it was expressing an intent to injure (b) (6), (b) (7)(C) in the future based on the present actions of that day.

(2) (b) (6), (b) (7)(C) initiated carrying out that intent by ordering (b) (6), (b) (7)(C) be placed on report and sent to a DRB. (b) (6), (b) (7)(C), (b) (6), (b) (7)(C) nor (b) (6), (b) (7)(C) believed such action was warranted for a minor UA that could have been a misunderstanding to begin with. Moreover, (b) (6), (b) (7)(C) had already been counseled in writing regarding (b) (6), (b) (7)(C) UA and informed that would be the end of it.

(3) (b) (6), (b) (7)(C) admitted to “being very upset and disappointed that (b) (6), (b) (7)(C) allowed himself to be put in this situation and didn’t think this through all the way.”

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(4) Based on this evidence, I concluded the allegation is **SUBSTANTIATED**.

c. Recommendation.

(1) Take administrative and/or corrective action as deemed appropriate.

d. Disposition. Forwarded to Commander, Naval Surface Force Atlantic for disposition.

6. Allegation 4, that (b) (6), (b) (7)(C), on or about November – December 2010, without authority, sold government property of the United States, in the sum of about \$1000.00, in violation of the Uniform Code of Military Justice, Article 108 (Military Property of United States—Loss, Damage, Destruction, or Wrongful Disposition) and COMNAVREGMIDLANTINST 5090.5 (Integrated Solid Waste Management Program (ISWMP) and Qualified Recycling Program (QRP), **SUBSTANTIATED**.

a. Facts:

(1) Manual for Courts-Martial, Uniform Code of Military Justice, Article 108 (Military Property of United States—Loss, Damage, Destruction, or Wrongful Disposition). Any person subject to this chapter who, without proper authority—

- a) sells or otherwise disposes of;
- b) willfully or through neglect damages, destroys, or loses; or
- c) willfully or through neglect suffers to be lost, damaged, sold, or wrongfully disposed of; any military property of the United States, shall be punished as a court-martial may direct.

(2) COMNAVREGMIDLANTINST 5090.5(8)(c) states, “In accordance with reference (a) [OPNAVINST 5090.1B], under no circumstances are activities or tenant commands in the COMNAVREG MIDLANT AOR allowed to sell recyclable material, or receive payment/reimbursement from the sale of recyclable materials. All recyclable materials shall be turned into the Regional QRP or the local DRMO. Activities that turn-in recyclable material to DRMO will ensure that the recycling line of accounting is on all DD 1348-1A forms to ensure that the proceeds benefit the Region’s solid waste reduction efforts. All proceeds for the sale of recyclable material shall be deposited in the regional QRP account.

(3) BMU2 removed old metal hydraulic lifts and their associated oil tanks from their maintenance bays that were out of commission. (b) (6), (b) (7)(C) stated, “So we were authorized to remove the lifts and environmental came and certified it clean. The lifts sat in the back for a while. We couldn’t find anyone who wanted them. We tried to give them away, but neither Port Hueneme or PWC wanted them or there was no response. There was no requisition number or Navy Stock Number (NSN) on them in order to send them to DRMO. Rather than just throwing them in the trash, I recommended to (b) (6), (b) (7)(C) that we scrap them and use the money for MWR.

I got tired of hot dog sales and everything. It just so happen my buddy was going through a courts-martial for somebody selling scrap metal and it just dawned on me that it’s carbon steel, it’s worth something. What made me think about selling the metal for scrap was talking to my buddy who was a witness in a courts-martial regarding someone who was going around collecting scrap and selling it for (b) own personal gain. I didn’t know selling the command’s scrap and putting the money back into the command was illegal. When I presented the idea to the CO, I figured if it was wrong (b) would know or

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(b) would look into it. (b) said it was okay so I figured it was okay. Since it was going toward MWR, back into the command, I didn't think it was bad. If it was wrong, I thought the CO would have known.

Once we received permission from the CO to scrap the lifts, we loaded the lifts and tanks onto an MTRV and took them out to the scrap yard, got the money, got the receipt and took it the MWR. It was almost a thousand dollars for scrapping the lifts. We turned receipts over to MWR. I think (b) (6), (b) (7) along with someone took the lifts to them there. We did two runs on two separate days. There were probably a couple weeks in between. I know that both runs were done prior to the Christmas party, but I don't recall the exact dates. Christmas party may have been around December 10th. So, we took the second set of lifts during the week of the 06 Dec10. The other run was around the week of the 15th of November 2010. (b) (6), (b) (7) took the money both times and brought it back to me. I turned it in to MWR both times.

We dealt with DRMO quite a bit. In trying to get rid of lifts, we found that Port Hueneme, PWC, Base Safety and Hazmat did not want anything to do with. I didn't contact DRMO about the lifts. I figured it was trash. I knew that the recycle center would take our scrap, but they wouldn't give us anything for it. Since we were trying to get money for the command party I suggested selling it. I spoke directly with the CO about it. Since I was (b) (6), (b) (7)(C) at that time, I did not need to go through the XO or SEA. They may have known about it after the fact since the CO talked about it at PMK but I can't say for sure.

I do not recall selling our old batteries for scrap. I don't remember. I can't recall if I told (b) (6), to take them down there. I remember (b) (6), saying something about them taking the old batteries, but I can't recall telling (b) to do that. If (b) (6), and (b) told you that, they would not be lying. They are trustworthy. I just can't recall if that happened or not.

All money that came in from scrap was turned over to the CO for MWR. All I know are the two trips for the lifts. I think was like \$1500 for both. It may have been \$1000 or even \$2000, I'm not sure.

(4) (b) (6), (b) (7)(C) stated sometime late November, early December 2010, the maintenance shop was instructed to remove the old floor lifts out of the large and small bay. They loaded up the old lifts and placed them in the back of a LSSV. (b) (6), (b) (7) and (b) (6), (b) (7)(C) were then instructed by (b) (6), (b) and (b) (6), (b) to take the old lifts to the Surplus recycling at 122 S Witchduck Rd # B, Virginia Beach, VA 23462-3746 and receive cash for the lifts. When they returned, (b) (6), (b) (7) gave the money to (b) (6), (b) .

(5) (b) (6), (b) (7)(C) stated, "(b) (6), and I made two runs to the recycle place in town. One run was for the lifts taken out of the maintenance bays and the other run was to take vehicle batteries. We did both runs either the same day or one on the next day. We had these maintenance free batteries that were bad and there was nothing we could do with them. We tested them and they were bad. When we dropped off the lifts we saw pallets of batteries there. When we got back to the command we told either (b) (6), (b) or (b) (6), (b) about it and (b) said yeah see if they'll take them. So we returned with the batteries and got a couple hundred dollars for them too. That's the only time I've ever been to that scrap place. When gave all the money to either (b) or (b) and it was put towards the command's Christmas party. That's the last I heard about it. I have no idea why we didn't take it to DRMO or base recycling.

(6) (b) (6), (b) (7)(C) stated the recycling center on base takes batteries and probably would have taken the lifts too. He's taken all kinds of metal there before.

(7) (b) (6), (b) (7)(C) stated, "The lifts from the maintenance bays were removed, put on to a truck and taken to a scrap yard/recycling center where we got money for them and the money was donated to MWR for the Christmas party. There is a recycling center on base. I was directed by (b) to take them out in town. I don't know why we didn't use the recycling on base, maybe the (b) were

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trying to get money for the party. The money was handed over to (b) (6), who then gave it to the CO and (b) (6) gave it to MWR. Later at a PMK the CO talked about how much was donated by the lifts being sold.

The batteries were sold at the same time. There were about 8-12 batteries. We were taking direction from (b) (6), (b) (7)(C). When (b) (6), and (b) (6), returned from selling the lifts they told us the recycling center took batteries too. We were cleaning things up at the time and trying to get rid of things. So, once the second set of lifts were removed and taken to the scrap yard, they were told by either (b) (6), (b) (6) or the CO to take the batteries too. There was a total of either 2 or 3 runs made. To my knowledge, we have not used that recycle center since then. We use the recycle center here on base. We were just over there two weeks ago. I know they take batteries, we have taken batteries there before. I don't know why we didn't take the batteries to the base recycling center except maybe they were trying to get money for MWR for the party at the time.

(8) (b) (6), (b) (7)(C) stated, "There was a big orange wash rack that the unit disposed of I took it to the recycling place out in town. I can't remember the places name or street but its near the interstate. I got cash back it was around \$400 that we got out of it and it went to the MWR fund for the 2009 Christmas party. No paper work was done at the time of disposal.

(9) (b) (6), (b) (7)(C) stated, "I am not aware of the lifts or batteries being taken to a scrap yard for money. Had I known, or even heard of that happening, I would have said something because that is wrong. About two years ago, when I first got here, something similar to that was asked by our old (b) (6). There was something said by the guys in maintenance to the effect of "why don't we take it and get money for it-should we scrap it or put it in the dumpster" or something to that effect, and I said, "No way" (b) (6), (b) (6) was (b) (6) at that time.

(10) (b) (6), (b) (7)(C) is the MWR president for BMU2. (b) (6) stated that (b) (6), (b) (6) was the MWR president at that time. When (b) (6) took over as President, all new logs were created and (b) (6) did not have any of the old logs documenting what money was turned over to MWR from the sale of the scrap. All previous logs had been destroyed.

(11) At quarters in front of the entire command, the CO thanked maintenance and informed the command that the money maintenance received for the lifts was used for Beach Master Unit TWO's Christmas party.

(12) When asked about the lifts in the maintenance bays, (b) (6), (b) (6) stated, "Again, as we go down this road, here we go again with some more "Gotcha" stuff. If there was anything wrong with this particular situation, why is it now July that I am hearing about that there was in issue with it. You know, again, I refuse to go over there and command out of fear and to allow somebody to hold the command hostage because they think they've gotcha. And if I'm got on this, then I understand that. It's not lost on me. The lifts, nobody on this whole base would help us with those lifts. I worked real real hard lobbying the Commodore and everybody else for money to buy new lifts so that my folks would have stuff that they could be proud of that actually worked that was state of the art. I wanted those old lifts out of there. Nobody would help us with them. They were broken and unsafe to use. I would have been derelict in my duties had I allowed that state to continue over there. Again, I was brought a recommendation. They had the guys to come in, they conducted a professional demonstration with us to show us how the lift would even lift up the 5-ton vehicles. I said okay chief I'll make a pitch to the commodore to give me the \$270,000 to buy the lifts, the lift stands, the whole kit and caboodle. We'll take out these other things to have the floor space to be able to operate these new lifts. We went to take the lifts out, fill the holes from the lifts, had the environmental come out, came to dispose of the lifts the actual big hunks of junk that came up out of it-- went to dispose of those and nobody would take them. Nobody would take them.

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DRMO wouldn't take them because they didn't have an NSN. We couldn't get rid of them at environmental. Nobody would take these things. (b) (6), (b) recommended to me to take these things down to scrap, sell them and get the money for MWR. That's exactly what I did. That's the decision I made on it based on the information I received from (b) (6), (b). Now if that was wrong or illegal or derelict then nobody came to tell me hey Captain we may be treading-- and I didn't go and bother to ask. The money went to MWR. I can't specifically say it went to the Christmas party but it went to MWR. That's what I did with that.

(13) When the (b) (6), (b) was asked about the extra batteries that were sold for scrap out in town (b) stated, "What batteries? There were no batteries associated with anything. Extra batteries? What do you mean? I didn't authorize any batteries to be taken out in town to be used for scrap or anything. The only thing I authorized was the metal. Again, I have a small command. We don't get big money from the base MWR or anything else like that. We do fundraiser to try and gather money to have a decent Christmas party. It was presented to me as an idea and I said okay. I did authorize that but I don't anything about any batteries or anything like that. Again, if there were batteries taken out there, folks are engaging in this "gotcha" stuff.

(14) (b) (6), (b) (7)(C), was asked if (b) knew what happened to the lifts removed from the Maintenance bays (b) stated, "I do now.

Q. When did you become aware of what happened to them?

A. 2 days ago.

Q. Where did you think they went?

A. I thought they went to base recycling.

Q. How did you find out 2 days ago where they went?

A. The CO told me that (b) had directed (b) (6), (b) and the guys to take them over to an off base recycling place.

Q. What prompted (b) 2 days ago to tell you this?

A. It came up because (b) was calling and said, "Anything going on with the IG?" and I said I think (b) is providing information and MWR's providing information—nothing specific about what was being asked or anything and immediately (b) said, "Oh, they want to know about the lifts." I said, "What do you mean the lifts?" That's when (b) told me the lifts had gone over to MWR. (b) actually thought I knew about that. I told (b) I was not part of that conversation and (b) agreed but thought I still knew about it. I said, "I did not know about that. I would not have authorized that." I would never have said yes, let's go take these things and turn them in for money and give it to MWR because I know that all that stuff has to go on base.

Q. There was a PMK where the CO addressed the entire crew and thanked Maintenance for taking the lifts out in town, selling them and putting the money towards MWR. Do you usually attend the PMK?

A. I usually do attend them. I honestly don't remember that and I probably wasn't there. If I was, I don't recall (b) saying that. I'm the guy who takes care of all the admin that goes into PMK, awards—are all the folks lined up right, worrying about if everything is taken care of, done and ready, if something is going on I'm the one who steps out to deal with the CDO and sign things, etc. so I don't always hear everything being put out. I don't ever remember hearing anything about the lifts.

Q. Do you remember hearing anything about the batteries being sold off to help pay for the Christmas party as well too?

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A. This is a complete surprise to me. I have never heard anything about this. The CO never said anything about this.”

b. Analysis/Discussion/Conclusion

(1) Since the fall of 2009, the following government property has been sold for scrap with the proceeds going towards BMU 2’s MWR fund. All amounts are approximate, taken from statements, as there are no longer any records:

- Large orange wash rack \$400
- Batteries \$200
- Lifts w/ associated oil tanks \$1000

(2) Several personnel, including (b) (6), (b) (7)(C), acknowledged government property was sold out in town and the proceeds from the sale were placed into BMU 2’s MWR. (b) (6), (b) (7)(C) admits to authorizing the sale of the old lifts that were removed from the Maintenance bay, however, (b) (6), (b) (7)(C) had no knowledge of the sale of the batteries or the orange wash rack. This was corroborated by other statements.

(3) (b) (6), (b) (7)(C) was under the belief that because the lifts did not have a NSN, no one, including DRMO would take them. This belief stemmed from information given to (b) (6), (b) (7)(C) by (b) (6), (b) (7)(C). However, this does not extend to Base Recycling as they certainly would have taken them as steel is a recyclable item. (b) (6), (b) (7)(C) admitted that (b) (6), (b) (7)(C) did not bother to ask, or seek advice from anyone else, whether this action was proper or legal.

(4) Neither (b) (6), (b) (7)(C) or (b) (6), (b) (7)(C) had any knowledge of the government property being sold. Neither of them were at the command when the orange wash rack was sold, and neither of them were consulted by (b) (6), (b) (7)(C) regarding sale of the lifts and oil tanks. (b) (6), (b) (7)(C) spoke directly with the CO. It is possible that both (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) may have heard about the sale after the fact when the CO spoke of it at PMK, however, both deny hearing anything about it and there are no other statements to suggest otherwise.

(5) Based on this evidence, I concluded the allegation is **SUBSTANTIATED**.

c. Recommendation.

(1) Take administrative and/or corrective action as deemed appropriate.

(2) BMU 2 receive training regarding proper disposal of government material. The acceptance, or perception that, selling of government material to scrap yards for money, to be used for or by the command, may still be present among some personnel at BMU 2. This practice has taken place consecutively over the past two years prior to the command’s Christmas Party (2009 and 2010).

d. Disposition. Forwarded to Commander, Naval Surface Force Atlantic for disposition.

(b) (6), (b) (7)(C)
[REDACTED]
[REDACTED]
[REDACTED]

(b) (6), (b) (7)(C)

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(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

(b) (6), (b) (7)(C)

[REDACTED]

[REDACTED]

8. **Allegation 6**, that (b) (6), (b) (7)(C), on or about November – December 2010, submitted appropriated funding into a non-appropriated (MWR) account in violation of 31 USC 1301 (Purpose, Time, Amount), **SUBSTANTIATED**.

a. Facts:

(1) 31 USC 1301:

- (a) Appropriations shall be applied only to the objects for which the appropriations were made except as otherwise provided by law.
- (b) The re-appropriation and diversion of the unexpended balance of an appropriation for a purpose other than that for which the appropriation originally was

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made shall be construed and accounted for as a new appropriation. The unexpended balance shall be reduced by the amount to be diverted.

(2) Same as in Allegation 4, fact numbers (3), (5), (7), (11), (12), (13) and (14).

b. Analysis/Discussion/Conclusion

(1) (b) (6), (b) (7)(C) admitted to placing the money received from selling appropriated government material into BMU 2's MWR non-appropriated account. Many personnel at the command corroborated this fact in addition to it being publicly stated at Command Quarters (PMK) by (b) (6), (b) (7)(C) as well.

(2) Placing appropriated funds into a non-appropriated account violates 31 USC 1301 creating a Purpose, Time and Amount (PTA) violation. The only way to correct this violation is to replace the funding.

(3) The appropriated funds placed into BMU 2's MWR non-appropriated account from November to December 2010 was approximately \$1200. This estimate is taken from personnel interviewed who stated they received about \$1000 for the lifts w/associated oil tanks and \$200 for the batteries. Although (b) (6), (b) (7)(C) did not authorize the sale of the batteries, the money from their sale still went into BMU 2's MWR non-appropriated account just the same.

(4) There are not enough facts to establish culpability on anyone's part for the sale of the large orange wash rack in 2009 for \$400 of which the funds were allegedly also placed in BMU 2's MWR account.

(5) Based on this evidence, I concluded the allegation is **SUBSTANTIATED**.

c. Recommendation.

(1) Take administrative and/or corrective action as deemed appropriate.

(2) In order to correct the 31 USC 1301 (PTA) violation, it is required that the money received from the sale of the government property be put into an appropriated account. Recommend (b) (6), (b) (7)(C) provide a check in the amount of \$1200 made payable to the U.S. Government and turned in to SURFLANT Comptroller.

d. Disposition. Forwarded to Commander, Naval Surface Force Atlantic for disposition.

9. Allegation 7, that (b) (6), (b) (7)(C) on or about May 2011, donated Beach Master Unit TWO MWR equipment to First Colonial High School, Virginia Beach, VA, in violation of BUPERSINST 1710.11C (Operation of Morale, Welfare and Recreation (MWR) Programs), **SUBSTANTIATED**.

a. Facts:

(1) BUPERSINST 1710.11C, paragraph 506(b)(8)(d) - In no instance will property purchased with APFs or NAFs be donated to any individual or non-Navy organization.

(2) BUPERSINST 1710.11C, paragraph 506 address proper disposition of "excess" MWR property and paragraph 507 address proper disposition of "unserviceable" MWR property.

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(3) (b) (6), (b) (7)(C) stated (b) (6), (b) (7)(C) had been cleaning things up around the command and one day in either May or June 2011, (b) (6), (b) (7)(C) saw weights laying around outside by their gym door. They were old, rusty, heavy weights ranging from 65-100 lbs that no one used because they were too heavy. (b) (6), (b) (7)(C) directed (b) (6), (b) (7)(C) to get rid of them. (b) (6), (b) (7)(C) had the idea of donating the weights to a high school and asked permission from the CO to do so. (b) (6), (b) (7)(C) stated, "The CO said, "Call a high school and see if they would accept them." I specifically called First Colonial because (b) (6), (b) (7)(C). They said they would take them. I told the CO that I was thinking we should give them to First Colonial High School and they were willing to accept them. CO said to go ahead and do it."

(b) (6), (b) (7)(C) had a couple Sailors load up the weights, 2-65, 2-70, 2-75, 2-80, 2-85, 2-90, 2-95, 2-100 dumb bells into one of their pick-up trucks and deliver them to First Colonial High School where they were turned over to the Strength and Conditioning Coach. (b) (6), (b) (7)(C) said (b) (6), (b) (7)(C) didn't know where the weights initially came from. The weights were rusted and had been there a long time. They were not being utilized in the command weight room. (b) (6), (b) (7)(C) further stated that, "If we need to get the weights back, I can easily get the weights back."

(4) The scrap metal value of the weights is \$118.80. Replacement value is \$1341.84.

b. Analysis/Discussion/Conclusion

(1) (b) (6), (b) (7)(C) had no idea donating MWR equipment was illegal or (b) (6), (b) (7)(C) never would have suggested it to (b) (6), (b) (7)(C). Likewise, it is presumed that (b) (6), (b) (7)(C) intention was to help the community with what was perceived as unusable equipment at BMU 2. However, had (b) (6), (b) (7)(C) researched the options or consulted with a SME, it would have been made clear to (b) (6), (b) (7)(C) that donating MWR equipment violates BUPERSINST 1710.11C

(2) Based on this evidence, I concluded the allegation is **SUBSTANTIATED**.

c. Recommendation.

(1) Take administrative and/or corrective action as deemed appropriate.

(2) Either get the weights back from First Colonial High School and dispose of them IAW with BUPERSINST 1710.11C, or replace the monetary value of the weights IAW BUPERSINST 1710.11C into the appropriate funding account from which the weights where purchased from.

d. Disposition. Forwarded to Commander, Naval Surface Force Atlantic for disposition.

(b) (6), (b) (7)(C)

(b) (6),
(b) (7)(C)

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(b) (6), (b) (7)(C)

[REDACTED]

[REDACTED]

[REDACTED]

(b) (6), (b) (7)(C)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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(b) (6), (b) (7)(C)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

(b) (6), (b) (7)(C)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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(b) [REDACTED]
(6) [REDACTED]
,
(b) [REDACTED]
(7) [REDACTED]
(C) [REDACTED]
) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
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[REDACTED]
[REDACTED]
[REDACTED]

(b) [REDACTED]
(6) [REDACTED]
,
(b) [REDACTED]
(7) [REDACTED]
(C) [REDACTED]
) [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
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[REDACTED]
[REDACTED]
[REDACTED]

(b) (6), (b) (7)(C)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

(b)
)
(6
)
(b
)
(7
)
(C
)

[REDACTED]

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(b) (6), (b) (7)(C)

[REDACTED]

[REDACTED]

[REDACTED]

(b) (6), (b) (7)(C)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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(b) (6), (b) (7)(C)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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(b) (6), (b) (7)(C)

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

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[REDACTED]

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(b) (6), (b) (7)(C)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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(b) (6), (b) (7)(C)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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(b) (6), (b) (7)(C)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

(b) (6), (b) (7)(C)

[REDACTED]

[REDACTED]

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(b) (6), (b) (7)(C)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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(b) (6), (b) (7)(C)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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(b) [REDACTED]
) [REDACTED]
(6 [REDACTED]
) [REDACTED]
(b [REDACTED]
) [REDACTED]
(7 [REDACTED]
) [REDACTED]
([REDACTED]
(C [REDACTED]
) [REDACTED]
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[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

(b) (6), (b) (7)(C) [REDACTED]
[REDACTED]
[REDACTED]

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[REDACTED]
[REDACTED]
[REDACTED]

(b) (6), (b) (7)(C)

11. **Allegation 9**, that (b) (6), (b) (7)(C), from on or about November 2009 to August 2011, abused financial resources in violation of 31 USC 1301 (Purpose, Time, Amount) and DODFMR 7000.14-R Volume 3 Chapter 8, paragraph. 080410, **SUBSTANTIATED**.

a. Facts.

(1) Same as in allegation 8, facts # (1) through (18) and (21) through (23).

(2) Command Coins – Under 31 U.S.C.A. § 1301(a), absent specific authority, an expenditure using APF is prohibited. However, 10 U.S.C. 2261 states appropriated funds may be used to purchase items intended for retention and/or recruitment. Item must cost \$50 or less and the **command must document the justification for each item issued**. IAW 31 U.S.C. 1125, appropriated funds may also be used to purchase items for the recognition of members for specific achievement, outstanding accomplishment, or a unique achievement that contributes to command effectiveness. These items are considered awards and should be documented.

b. Analysis/Discussion/Conclusion

(1) It had been brought to (b) (6), (b) 's attention that there were discrepancies with BMU 2's purchases and credit card program. Although many of the discrepancies had been taken care of, (b) never instituted a policy of reviewing or approving purchases that could be considered (6), questionable nor did (b) institute a threshold purchase amount requiring (b) review.

(2) Assistance had been offered by CNBG 2 Supply Officer which was never utilized or taken advantage of.

(3) (b) (6), (b) did not keep an official log of the command coins (b) presented, or gave away, that were purchased with appropriated funds.

(4) (b) (6), (b) purchased several command coins utilizing appropriated funds which no accountability or log could be found for the proper distribution of the coins.

(5) The expenditure of an appropriation must be for a particular statutory purpose, or necessary and incident to the proper execution of the general purpose of the appropriation. The purchase of a travel bag on wheels for (b) (6), (b) 's personal use and the purchase of approximately 50 Leatherman tools for (b) to give to newly reporting personnel are not considered a necessary expense nor do they contribute materially to the effective accomplishment of their function as required by 31 USC 1301 and DODFMR 7000.14-R Volume 3 Chapter 8, paragraph. 080410.

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(6) Commanding Officers are entrusted to be good stewards of the taxpayers' dollars. I found that (b) (6), (b) (7)(C) did not exercise the required degrees of due diligence in BMU 2's expenditures.

(7) Based on this evidence, I concluded the allegation is **SUBSTANTIATED**.

c. Recommendation.

(1) Take administrative and/or corrective action as deemed appropriate.

d. Disposition. Forwarded to Commander, Naval Surface Force Atlantic for disposition.

13. Interviews and Documents

a. Interviews conducted. (All interviews were conducted in person, all personnel stationed at BMU 2 unless otherwise stated)

- (1) (b) (6), (b) (7)(C) (subject)
- (2) (b) (6), (b) (7)(C) (subject)
- (3) (b) (6), (b) (7) (subject), (b) (6), (b) (7)(C))
- (4) (b) (6), (b) (7)(C) (witness)
- (5) (b) (6), (b) (7)(C) (witness), via telephone, (b) (6),
- (6) (b) (6), (b) (7)(C) (witness), telephone interview
- (7) (b) (6), (b) (7)(C) (witness)
- (8) (b) (6), (b) (7)(C) (witness)
- (9) (b) (6), (b) (7)(C) (witness)
- (10) (b) (6), (b) (7)(C) (witness)
- (11) (b) (6), (b) (7)(C) (witness)
- (12) (b) (6), (b) (7)(C) (witness), telephone interview, (b) (6), (b) (7)
- (13) (b) (6), (b) (7)(C) (witness), (b) (6), telephone interview, (b)
- (14) (b) (6), (b) (7)(C) (witness)
- (15) (b) (6), (b) (7)(C) (witness)
- (16) (b) (6), (b) (7)(C) (witness)
- (17) (b) (6), (b) (7)(C) (SME), telephone/email, (b) (6), (b)
- (18) (b) (6), (b) (7)(C), telephone/email, (b) (6), (b)

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- (19) (b) (6), (b) (7)(C) (witness)
- (20) (b) (6), (b) (7)(C) (witness), telephone/email, (b) (6),

b. Documents reviewed

- (1) Watchbill for Static Display of 17 Jul 11
- (2) Surplus Recycling Receipt of 14 Dec 10
- (3) CO, BMU 2, ltr 5500 of Jun 06 (Preliminary Inquiry)
- (4) Photographs of Static Display of 17 Jul 11
- (5) Receipts for Droid 2X cell phone w/accessories of 10 Sep 11
- (6) Receipts for Macbook Pro of 16 Nov 09
- (7) (b) (6), (b) (7)(C) email of 20 Sep 11 (Scrap metal pricing)
- (8) (b) (6), (b) (7)(C) assessment of BMU 2 Supply of 5 Aug 11
- (9) CO, FISC ltr 210A10/90 of 28 Jul 11 w/refs

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